

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO on the)	
relation of State Engineer,)	
)	
Plaintiff,)	
)	69cv07941-BB-ACE
-v-)	
)	RIO CHAMA STREAM SYSTEM
RAMON ARAGON et al.,)	
)	Section 2: Rio Ojo Caliente
Defendants.)	& Tributaries
)	

PROCEDURAL ORDER FOR
COMPLETION OF PRIMARY SUBFILE WORK AND
RESOLUTION OF ERRORS AND OMISSIONS

This Order is entered by the Special Master pursuant to Fed. R. Civ. P. 16(b) to guide the course of proceedings to complete primary subfile work, to resolve outstanding errors and omissions, and to amend and correct the hydrographic survey maps in anticipation of entry of a partial final decree adjudicating the irrigation water rights within the Rio Ojo Caliente stream system, Section 2 of the Rio Chama. Having considered the comments of counsel for the State of New Mexico, ex rel. State Engineer (“State”) and counsel for the thirty-four community acequias (“Acequias”) that divert water from the Rio Ojo Caliente stream system, I make the following findings:

1. The Hydrographic Survey Report for the Rio Ojo Caliente Section was completed in June, 1968. The task of adjudicating individual subfile work began shortly thereafter, with substantial completion of the work accomplished by the mid-1970’s.
2. Approximately 700 subfiles have been adjudicated water rights by Subfile Order. Approximately 100 subfiles have been adjudicated rights by Default Order. Several ditch orders have been entered. There is no partial final decree.

3. The question of irrigation water requirements has been resolved. Stipulation and Settlement Agreements between the State and the Acequias regarding the duty of water to all subfiles were filed on August 13, 1997 (Docket No. 5677) and September 17, 1998 (No. 5824). An Order adopting the agreements was entered January 7, 1999 (No. 5838).

4. In 1994, the Court's data management contractor compiled preliminary statistics regarding errors and omission, and found that within Section 2, 626 subfile orders had been entered at that time. Of these, approximately 180 were considered "problem subfiles," and 416 subfiles had incomplete legal descriptions. See Data Management Report on Errors and Omissions and Proposed Schedule for their Investigation and Resolution, filed September 22, 1994. Problems include discrepancies between (a) irrigated acreages shown on the hydrographic survey maps and (b) acreages adjudicated by the subfile orders.

5. In 1998, the Acequias identified approximately 200 claims of errors and/or omissions, and individual claimants filed reports specifically identifying the nature of their respective claims with the Hydrographic Survey Bureau. The claims include (a) subfile orders adjudicated to the wrong persons; (b) claims of irrigated lands entirely omitted from the Hydrographic Survey; and (c) claims of additional irrigated acreage not included in the Hydrographic Survey. The State began, but did not complete, the investigation of those claims.

6. To date, there has been no systematic process for the identification and resolution of errors and omissions in the hydrographic survey, and for corrections and amendments to the subfile orders that have been entered in this matter.

7. The State of New Mexico is currently in the process of completing primary subfile work in Sections 3 and 7 of the Rio Chama Adjudication, which is a matter of first priority. Primary

subfile work in Section 3 is approximately 75 percent complete. Primary subfile work in Section 7 is approximately 50 percent complete.

8. The Acequias have current capacity and technical expertise to begin a systematic identification of the errors and omissions in Section 2 in need of resolution before entry of a Partial Final Decree in Section 2.

9. Pursuant to the Administrative Order on Case Management Priorities, entered July 16, 2004 (No. 7523), Section 2 is a first priority task, following the completion of the adjudication of non-federal water rights claims in State v. Abeyta, 69cv07896 (the Taos and Rio Hondo stream systems) and Sections 5, 3 and 7 of this case. It is desirable that the Acequias move forward with identification of errors and omissions, so that when the State is ready to investigate those claims, the Acequias' work will be completed. The State has agreed to cooperate with the Acequias to this end. Based on these findings,

IT IS HEREBY ORDERED that the preliminary process for the resolution of errors and omissions and for completion of primary subfile work in Section 2 shall be as follows for the following year:

(1) The Acequias will begin working from existing public data bases and records maintained by the Court's data management contractor and the State.

(2) The Acequias will construct a statement of claim form for the State's approval.

(3) The Acequias' compilation of errors and omissions shall substantially follow the categories of clerical and substantive errors which are identified in the Order on Procedures for Correcting and Amending Subfile Orders (No. 2000), entered in this matter on February 23, 1995, and include:

- i. tracts or water sources which were completely omitted from the hydrographic survey;
- ii. discrepancies between the descriptions of water rights as set forth in the subfile orders and the hydrographic map sheets; and
- iii. any other types of errors or omissions.

(4) In approximately one year from entry of this Order, the State and Acequias shall request the Special Master to conduct a status conference for the purpose of reporting progress to date and to enter further procedural and scheduling orders.

IT IS SO ORDERED.

/electronic signature/
SPECIAL MASTER VICKIE L. GABIN